

# Right to Buy – Buy Back Policy

(Date here – month / year)



*We speak your language*

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Polish

*Mówimy Twoim językiem*

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French

*Nous parlons votre langue*

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Spanish

*Hablamos su idioma*

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Slovak

*Rozprávame Vaším jazykom*

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Chinese

我们会说你的语言

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## 1. Introduction

- 1.1 The Right to Buy scheme is a government incentive which gives eligible social housing tenants the right to buy their home at a discount on the market value, meaning lower than the price it would sell on the open market. To buy under this scheme applicants must have been a secure public sector tenant for at least 3 years.
- 1.2 The Housing Act 2004 introduced the Right of First Refusal by implementing The Housing (Right of First Refusal) (England) Regulations 2005 which came into force in August 2005.
- 1.3 The regulations became effective for people who received their offer notice for Right to Buy or Right to Acquire after 18th January 2005.
- 1.4 The regulation stipulates that Right to Buy owners who wish to resell or dispose of the property within 10 years from the date of the original purchase (whether freehold or leasehold) will in the first instance have to offer the property to the former landlord (or to another social landlord) at full market value, this being the Council. However a reduced purchase price may apply due to the owners discount repayment liability where applicable or through a negotiated value between the owner and the Council or where any repairs are required which will be at a cost to the Council. (see part 4.4).
- 1.5 This document sets out the Council's policy for repurchasing homes bought from the Council either through a voluntary sale or under the provision of the Right to Buy, which includes the repurchase of properties offered to the Council under the Right of First Refusal obligation. The policy also provides criteria that may be applied when considering purchasing former Council homes purchased outside the 10 year period or properties that were not former Council homes.

## 2. Scope

- 2.1 The policy will provide a framework in delivering the Council's statutory duties under housing and related legislation when repurchasing properties that were bought under the Right to Buy scheme and will have due regard to the following, as an example;
  - Housing Act 1985 (s156A)
  - Landlord and Tenant Act 1985 and 1987
  - Housing and Planning Act 1986
  - Leasehold Reform, Housing and Urban Development Act 1993
  - Housing Act 1996
  - The Housing (Right of First Refusal) (England) Regulations 2005
- 2.2 This policy may also be used when considering purchasing properties that were not originally bought through the right to buy scheme which will enable regeneration and housing growth in line with the Affordable Social Housing Acquisitions and Disposals Policy.
- 2.3 The procedures and the delegated decision making process in the policy will be adhered to when potential properties are offered for sale or identified by the Council

or Rykneld Homes Limited including through a third party, for example estate agent, or property Auction.

### 3. Principles

3.1 The Council as a landlord is committed to meeting housing need within the district and strives to make best use of its housing stock, therefore the policy will help to fulfil the Corporate aims by;

- Enabling housing growth
- Providing good quality social housing
- Unlocking development potential.

3.2 The Policy will also have due regard to the Councils and Rykneld Homes policies and strategies, including the;

- Affordable Social Housing Acquisitions and Disposals Policy
- Empty Properties Strategy
- Housing and Economic Development Strategy
- Asset Management Strategy

### 4. Statement

#### 4.1 Right to Buy Discounts for Context

4.2 Eligible tenants can purchase Council Owned properties under the Right to Buy Scheme at a discount which are set by law and cannot be changed by individual Councils. The discount is tapered therefore the longer the tenancy, the bigger the discount with a current (April 2018) maximum discount of £108,000 in London and £80,900 in the rest of England: discounts increase each year in line with any inflation.

4.3 There are different discounts for different properties;

- Houses - 35% discount for a 3 – 5 year public sector tenant, after 5 years the discount will increase by 1% for every extra year up to a maximum of 70% – or £80,900 across England (whichever is lower)
- Flats - 50% discount for a 3 – 5 year public sector tenant, after 5 years the discount will increase by 2% for every extra year up to a maximum of 70% – or £80,900 across England (whichever is lower)

#### 4.4 Owners Selling a Previous Right to Buy Property

4.5 Owners can sell their home at any time, however if they wish to sell within 5 years of the original purchase date then the Council will have a right to ask for repayment of all or part of the discount, this is at the Council's discretion. Regulations have been put in place for the discount proportion to be repaid and the actual price would depend on the current valuation of the property.

4.6 The discount proportion is as follows;

- 1st year - The whole discount will have to be repaid
- 2nd year - Four fifths must be repaid
- 3rd year - Three fifths must be repaid
- 4th year - Two fifths must be repaid
- 5th year - One fifth must be repaid

4.7 Owners who bought their council home through the Right to Buy scheme after 18th January 2005 and who want to sell it within 10 years after the original purchase date are required to make a first offer to the council, this is known as the Right of First Refusal obligation (see part 4.11).

4.8 There is no legislation that states the Council must buy the property back, however this policy will be used by the Council in consultation with Rykneld Homes Ltd to consider buying any former Council properties or properties to enable regeneration, development or to help alleviate housing need through current housing schemes.

4.9 The owner in the first instance should send an “Offer Notice” or write to the Council, either by letter or email, to make an offer of sale. This notice must include;

- The full postal address
- State that the covenant on the property requires the Council to be offered the first refusal of purchase
- The property type and size
- The type of the property’s heating system
- Specify any improvements or structural changes which have been made since the original purchase
- Return address for the correspondence

4.10 The Council will send an “Acknowledgement of receipt of offer notice” which is a statutory requirement and must include the following:

- specify the date of receipt of the offer notice; and
- explain the effect of regulations in simple terms, which are;
  - Acceptance notices
  - Rejection notices
  - Nomination of another person to accept an offer
  - Disposal of property and requirement for further offer notice
  - Time limit for completion of purchase

4.11 For properties outside the 10 year period for the Right of First Refusal buy back legislation the same procedures will apply, where applicable, including the assessments and the delegated decision making process.

4.12 Properties in these circumstances will include those properties identified by the Council or Rykneld Homes Limited via a third party, for example through an Estate Agent or property Auction.

**4.13 Right of First Refusal**

- 4.14 In line with legislation when an “Offer Notice” or letter is received requesting the sale of a property under the Right of First Refusal obligation the Council can either;
- Buy the property back
  - Refuse to buy the property back, in which case it can then be sold on the open market, however discount repayments may apply as per part 4.6.
  - Nominate another housing provider in the area to purchase the property i.e. a Registered Provider (RHL will be given first refusal) (see part 4.26)
- 4.15 A purchase under the Right of First Refusal obligation will be made in line with the requirements of the legislation which are;
- The Council must purchase a property at the full market value (if this cannot be agreed then an independent valuer will be assigned to value the property and both parties should agree). **The Cost of repairs will be taken into consideration and will be deducted from this value.**
  - The Council must accept the offer of the property within 8 weeks of receiving notification from the owner.
  - Acceptance of an offer must be by acceptance notice confirming that the Council wants to purchase the property.
  - Once the offer is accepted the Council has to enter into a binding contract with the owner within 12 weeks after the date on which the acceptance notice is served on the owner or no later than 4 weeks after the receipt of written notification from the owner that they are ready to complete.
  - If the time limits are not met the owner can sell the property on the open market
- 4.16 **Financing**
- 4.17 There must be sufficient funding to proceed with the purchase which must be ascertained before any formal decision can be made and the owner notified.
- 4.18 If no funding is available then an offer of sale request will be denied and the owner will be notified in writing within 10 working days, the property then can be sold on the open market.
- 4.19 **Assessment Criteria Guidance**
- 4.20 The Council will consider all requests received from home owners and conduct an assessment in consultation with RHL, giving priority to properties that meet the Councils corporate aims.
- 4.21 When considering repurchasing a property a viability assessment will be conducted and how the use of the property will be determined, this can include, for example:
- to let within the Council’s housing stock
  - to let as specialist housing
  - for Private Sector Leasing (PSL) in partnership with a Registered Provider
  - to demolish for regeneration/development purposes
  - to nominate to another housing provider to purchase

4.22 Properties within the following categories will be given priority:

- Properties located in high housing demand areas
- Properties that enable regeneration
- Properties that enable development opportunities
- Properties that are long term empty
- Properties that are suitable for current housing schemes such as PSL
- Flats within council owned blocks

4.23 The Council in consultation with RHL will determine if the property to purchase is a viable investment by assessing if the property is value for money when taking into consideration;

- Properties for housing stock, including;
  - the purchase price,
  - the value of any repairs/improvements required to bring the property up to a lettable standard,
  - the rent which the property would generate, and
  - if there is any repayable discount by the owner.
- Properties for regeneration/development purposes, including;
  - the purchase price
  - how it will contribute to the wider scheme,
  - how it will contribute to the community,
  - how this would generate revenue, and
  - how this would enable housing growth.

4.24 Assessments will be carried out to each property on its own merit by the Council's Housing Strategy team in Partnership with Rykneld Homes Limited (RHL) using various resources to determine viability.

4.25 Each property will be fully inspected by Rykneld Homes Ltd to ensure value and any works required. The assessed cost of the works will be off set against the value of the property.

4.26 The Council reserves its right to refuse to buy a property and each property will be assessed on its own merit using the assessment criteria, as a guide set out in this policy.

4.27 If the Council refuses to buy the property a rejection notice must be served as soon as the decision has been made not to purchase or nominate to another organisation (no later than 8 weeks). The rejection notice must;

- be in writing; and
- state that the Council is rejecting the offer to purchase the property.

4.28 Properties which are deemed to be of defective construction under the provision of the Housing Defects Act 1984 will only normally be considered for wider regeneration/development purposes, however in exceptional circumstances the Council may agree to a purchase if the property is structurally sound and it is

financially viable. Where flats are of a non-traditional construction but in a Council owned block special consideration may be given.

#### 4.29 **Nomination of Another Person to Accept an Offer**

4.30 Regulation 8 of the Housing (Right of First Refusal) (England) Regulations 2005 states that the Council can nominate another person to accept the offer of sale.

4.31 The Council will reserve its right to nominate “another person” to accept the offer of sale (RHL will be given first refusal), however the Council will stipulate that any nomination must be to the benefit the community to help with housing need, comply with current housing schemes or enable development/regeneration.

4.32 The Council will only nominate to organisations registered as a social landlord, including Registered Housing Providers or other bodies who fulfil the landlord condition set out in [section 80\(4\) of the Housing Act 1985](#).

4.33 Before an organisation can be nominated to accept a particular offer of sale, the organisation must give their permission to be nominated in writing.

4.34 Any nomination decisions will be based on a property by property basis, including which suitable housing provider to nominate to.

#### 4.35 **Delegation**

4.36 Once the assessment is complete the evidence will be presented to the Joint Asset Management Group (RHL and NEDDC) for consultation.

4.37 The Joint Strategic Director – Place in consultation with the Council’s Portfolio holder for Housing Strategy will make the final decision to approve or refuse the sale offer or nomination to another housing provider.

4.38 The strict statutory timeframes must be adhered to therefore in order to meet deadlines, on occasions this can be agreed via email.

#### 4.39 **“Notice” Criteria**

4.40 All notices can be served either by post or by personal delivery.

#### 4.41 **Appeals Procedure**

4.42 Appeals must be received within 28 days from the date of the decision notification and will be considered against how the policy or procedure has been implemented.

4.43 Where an applicant is appealing against how the policy and/or the procedures have been applied a Senior Officer will investigate the case and respond accordingly. If the owner is not satisfied with the decision the normal Council procedure will be implemented and the owner can appeal to the Local Government Ombudsman.

4.44 Under these circumstances the Council will still not be obligated to repurchase.

## 5. Responsibility for Implementation

- 5.1 The Council working in partnership with Rykneld Homes Limited will be ultimately responsible for the implementation of this policy, however nominated Housing Providers will also have due regard and follow the procedures outlined to comply with legislation.

## 6. Appendices

- Right of First Refusal Procedure

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